

Charities & Legal Services Division Town Hall Meeting

Compliance & Enforcement of Charitable Organizations How to Avoid Complaints...

Kathy Smith, Assistant Secretary of State

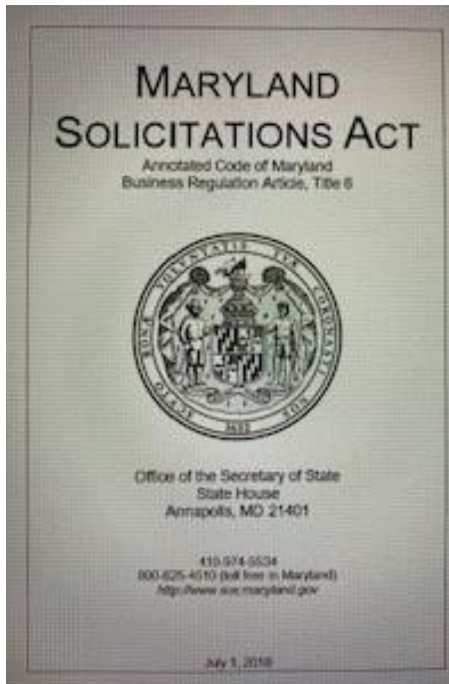
Michael Schlein, Division Administrator

April 4, 2022

**NOTE: Today's Town Hall will be recorded and the PPT will be posted on the SOS website under the Charities tab.
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MARYLAND LAW REGULATING CHARITABLE ORGANIZATIONS...



Maryland Solicitations Act, Business Regulation Article,
Title 6 MARYLAND ANNOTATED CODE
CODE OF MARYLAND REGULATIONS TITLE 01, SUBTITLE 02, CHAPTERS 04, 05

- WHERE TO FIND IT...

<https://sos.maryland.gov/Documents/MarylandSolicitationAct.pdf>

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Now
WHAT?

Common Complaints and Compliance Issues...

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MARYLAND SOLICITATIONS ACT, BUSINESS REGULATION ART., TITLE 6, SUBTITLES 4 and 5.

Common Violations TITLE 6, SUBTITLES 4 and 5.

- §6-401. Registration required.
- §6-402. Registration statements.
- §6-408. Annual Reports.
- §6-411. Disclosure Statement.
- §6-501. Agreements.
- §6-508. Fiduciaries.

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MARYLAND SOLICITATIONS ACT, BUSINESS REGULATION ART., TITLE 6, SUBTITLE 6. PROHIBITED ACTS; PENALTIES

Common Violations TITLE 6, SUBTITLE 6.

- §6-606. Application of charitable contribution.
- §6-607. False or misleading material.
- §6-608. Deceptive act.
- §6-609. Misrepresentation - Use of similar marks or printed matter.
- §6-610. Misrepresentation –Charitable or use of proceeds
- §6-611. Misrepresentation - Sponsorship or endorsement w/o consent.
- §6-613. Willful violations.
- §6-614. Grossly negligent violations.

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Maryland Secretary of State

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ENFORCEMENT

And Compliance...

CHARITIES & COMPLIANCE

Enforcement Options:

- Letters, phone calls, e-Mails, site visits, assurance of voluntary compliance, assurance of discontinuance, cease and desist order, seek injunction

Enforcement Actions:

- Letters, phone calls, e-Mails, site visits

More Austere Actions, as Needed

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REGISTRATION COMPLIANCE

- Incomplete Initial Registrations
 - Organization fails to complete initial registration.
 - Remains incomplete until organization submits all outstanding documents and pays any outstanding late fees to the Office.
- Enforcement Actions Regarding Incomplete Registration
 - Options:
 - Letters, e-Mails, phone calls, site visits, cease and desist orders, seek injunctions
 - Actions Taken:
 - Letters, e-Mails, phone calls.
- Administratively close incomplete registrations if no response in 3 years.

REGISTRATION COMPLIANCE, CONT'D

- Incomplete Annual Registrations
 - Annual Registrations due within 10.5 months after the fiscal year ends
 - If annual registration is incomplete 60 days after the due date, the organization is considered delinquent and a \$25 late fee is assessed
 - The late fee increases \$25 per month on the 1st day of each month thereafter until the organization's registration is current.
- Enforcement Actions Regarding Incomplete Registration
 - Options:
 - Letters, e-Mails, phone calls, site visits, cease and desist orders, seek injunctions
 - Actions Taken:
 - Letters, e-Mails, phone calls.

Bus. Reg. § § 6-404, 6-408

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INVESTIGATION OF COMPLAINTS

- Secretary of State's Office partners with the Maryland Attorney General's Office on investigations of potential violations of the Maryland Solicitations Act
- Complaint of violation of Maryland Solicitations Act reported
- Conduct investigations
- Result of investigation:
 - Secretary of State may issue "Cease and Desist Order," when a determination is made that potential violation(s) presents a threat to public's health, safety and welfare, and requires immediate end to charitable solicitations pursuant to Maryland Code Ann., Business Regulation ("B.R."), § 6-205.
- Order notifies Respondents:
 - Secretary of State determined Respondents committed violations of Solicitations Act.

CHARITIES INVESTIGATIONS & ENFORCEMENT ACTIVITIES

- Collaboration between Secretary of State and Attorney General's Office is vital to regulating charities to ensure successful outcomes against rogue charities.
- Respond to complaints from citizens/donors, inquiries from public, law enforcement, media, among others.
- Enforcement actions are taken:
 - On behalf of Maryland citizens in public interest.
 - Ensure contributions used for intended purpose and that donors are not misled.
 - Determine violations of Maryland Solicitations Act, Title 6, Business Regulations Article, Annotated Code of Maryland.

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ENFORCEMENT ACTIONS RESULTING FROM COMPLAINTS

INVESTIGATION RESULTS

INFORMAL ACTIONS:

- Informal actions explain requirements to gain compliance, used for lesser violations:
 - Letters, Phone Calls
- Letter Agreements:
 - Requires officer of charity sign and return, agree to terms to ensure compliance moving forward.

FORMAL ACTIONS:

- Formal actions include issuing:
 - Assurance of Voluntary Compliance
 - Assurance of Discontinuance
 - Summary Cease & Desist Orders

Bus. Reg. § 6-205

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CEASE AND DESIST ORDERS

- Cease & Desist Order Issued
 - Notification via Certified U.S. Mail, U.S. Mail, e-Mail
- Respondent has 30 days to request Hearing
- Notification of Hearing sent to both Respondent and State via Certified U.S. Mail, U.S. Mail, e-Mail

Bus. Reg. § 6-205



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HEARING PROCESS

Contested case hearings are conducted in accordance with the Maryland Administrative Procedures Act, Title 10, State Government Article, Md. Code Ann.

- **PURPOSE OF THE HEARING:**
 - Hear evidence and argument, requested by Respondent (Charity), to remove Cease & Desist Order issued by the Secretary of State.
- **RESPONDENT MAY BE REPRESENTED BY COUNSEL:**
 - Respondents are sworn in.
- **ESTABLISH PROPER NOTICE WAS GIVEN AND RECEIVED:**
 - Only information relevant to Hearing is considered.

PROPOSED DECISION - issued within 30 days of last date of Hearing. **Based upon the findings of fact and conclusions of law.**

FINAL DECISION:

Secretary decides whether to affirm Proposed Decision. Makes determination if Exceptions Hearing requested.

APPEAL PROCESS - this includes a right to petition for judicial review

Bus. Reg. § 6-205, COMAR 01.02.03.11-.14

**FOR LEGAL ADVICE OR COUNSEL ON COMPLIANCE WITH THESE REQUIREMENTS,
ORGANIZATIONS MAY CONTACT THEIR OWN COUNSEL OR THE FOLLOWING RESOURCES:**

- Community Law Center (<http://communitylaw.org>)
- Maryland Nonprofits (<https://www.marylandnonprofits.org>)
- Maryland Nonprofit Development Center
(<https://www.marylandnonprofits.org/nonprofits-get-help/nonprofit-development-center>)
- Local Bar Associations

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Questions



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CONTACT INFORMATION

Charities & Legal Services Division

Website: sos.maryland.gov

Charitable Organizations Division:

Phone Number: (410) 974-5521

Email: [DLCharity SOS@Maryland.gov](mailto:DLCharity_SOS@Maryland.gov)

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